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8 **IN THE UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**
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12 FELTON A. SPEARS, JR. and
13 SIDNEY SCHOLL, on behalf of themselves
14 and all others similarly situated,

15 Plaintiff,

16 vs.

17 FIRST AMERICAN EAPPRAISEIT
(a/k/a eAppraiseIT, LLC),
18 a Delaware limited liability company,

19 Defendant.
20

) Case No. 5-08-CV-00868 (RMW)

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) **Honorable Ronald M. Whyte**

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) **PLAINTIFF'S PROPOSED SPECIAL
VERDICT FORM**

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21 When answering the following questions, please follow the directions provided in the form.
22 Your answer to each question must be unanimous. Some of the questions contain legal terms that are
23 defined and explained in detail in the Jury Instructions. Please refer to the Jury Instructions if you are
24 unsure about the meaning or usage of any legal term that appears in the questions below.

25 We, the jury, unanimously agree to the answers to the following questions and return them
26 under the instructions of this Court as our verdict in this case.
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1 RESPA states that “No person shall give and no person shall accept any fee, kickback, or thing
2 of value pursuant to any agreement or understanding, oral or otherwise, that business incident to a part
3 of a real estate settlement service involving a federally related mortgage loan shall be referred to any
4 person.”

5 **Special Verdict Question One**

6 To find for Plaintiff, Felton A. Spears, Jr., you must find that Defendant eAppraiseIT provided
7 Washington Mutual with a thing of value which, in this case, is defined as inflated appraisals. This
8 means that Plaintiff does not have to prove that every, or even most appraisals had inflated values, but
9 just that, overall, eAppraiseIT provided Washington Mutual with appraisals with inflated values to
10 some extent.

12 Do you find by a preponderance of the evidence that EA provided Washington Mutual with a
13 thing of value, namely appraisals inflated in the aggregate?

15 Yes ____ No ____

17
18 If your answer to Special Instruction One is Yes, please go to Special Verdict Question Two.
19 If you answered no, stop here, answer no further questions, and have the Presiding Juror sign and date
20 this form.

21 **Special Verdict Question Two**

22 To find for Plaintiff, you must find that defendant eAppraiseIT had an agreement or
23 understanding with Washington Mutual to provide inflated appraisals to Washington Mutual in
24 exchange for Washington Mutual providing eAppraiseIT with appraisal referrals. Plaintiff need not
25 provide direct evidence of an agreement, like a written contract, but may show that an agreement
26 existed through circumstantial evidence. As such, the agreement or understanding between
27
28

1 eAppraiseIT and Washington Mutual may be established by showing a practice, pattern, or course of
2 conduct.

3 Do you find that First American eAppraiseIT had an agreement or understanding with
4 Washington Mutual to provide inflated appraisals for referrals of appraisal business?

5
6 Yes ____ No ____
7

8
9 If your answer to Special Verdict Question Two is Yes, please go to Special Instruction Three.
10 If you answered no, stop here, answer no further questions, and have the Presiding Juror sign and date
11 this form.

12 **Special Verdict Question Three**

13 If you decided that eAppraiseIT and Washington Mutual had an agreement, you must decide
14 the duration of that agreement.

15 For what time period do you find that First American eAppraiseIT and Washington Mutual
16 had an agreement or understanding that First American eAppraiseIT would provide inflated appraisals
17 to Washington Mutual in exchange for business referrals?
18

19 We, the jury find, First American eAppraiseIT had an agreement or understanding with
20 Washington Mutual to inflate appraisals in exchange for business referrals from _____ until
21 _____.
22

23
24 You have now reached the end of the verdict form and should review it to ensure it accurately
25 reflects your unanimous determinations. The Presiding Juror should then sign and date the verdict
26 form in the spaces below and notify the Security Guard that you have reached a verdict. The Presiding
27 Juror should retain possession of the verdict form and bring it when the jury is brought back into the
28 courtroom.

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DATED: _____, 2014 By: _____
Presiding Juror